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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,741	03/07/2002	Fernando R. Masas	135/0001	2877

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EXAMINER

MARSH, STEVEN M

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/092,741

Applicant(s)

MASAS, FERNANDO R.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 10-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-16 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the second office action for U.S. Application 10/092,741 for Methods and Apparatus for Suspending Fixtures filed by Fernando R. Masas on March 7, 2002.

Claim 9 has been canceled.

### ***Allowable Subject Matter***

Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14-16 are allowed. The following is an examiner's statement of reasons for allowance: The prior art does not disclose a kit with the following: a plurality of pre-cut wires of substantially the same length; a plurality of angle brackets with a first flange and a second flange; whereby the first flange has a hole adapted to receive a fastener and the second flange has a structure adapted to receive an end of a wire, and whereby the structure is crimpable upon the end of the wire to secure the wire to the second flange; and a crimping tool.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Claim Rejections - 35 USC § 102***

Claims 1-4 and 7, 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,585,840 to Fahnestock. Fahnestock discloses an apparatus for suspending a fixture in conjunction with a wire with an angle bracket that has a first (8) and second flange (9) with a plurality of flanges (10 for each part 12). The first flange has a hole that receives a fastener and the second flange has a structure with a plurality of alternating loops (13) that is crimpable around the wire. The first flange lies in a first plane and the second flange lies in a second plane that is not parallel to the first plane. The structure includes a tongue (14) and the tongue cooperates with the portions (12 and 13) to define a wire-receiving hole (or slotted cylinder) and the wire extends in a direction that forms an angle with the first plane (0 degrees or 180 degrees). The wire is suspended by: obtaining a wire, a fastener, and an angle bracket; inserting an end of the wire into the structure; and crimping the structure upon the end of the wire to secure the wire to the second flange.

***Claim Rejections - 35 USC § 103***

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fahnestock. Fahnestock does not specifically disclose a method of suspending a fixture from a surface wherein the angle bracket and fastener are obtained simultaneously. However, it would have been obvious to one of ordinary skill in the art at the time of the present invention to have obtained the bracket and fastener at the same time to pre-fit the fastener and hole in the bracket, basically making the device

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one-piece rather than separable, for the purpose of providing a fastener bracket arrangement wherein a user would not have to locate a separate fastener to install the bracket.

### ***Response to Arguments***

Applicant's arguments filed June 17, 2003 have been fully considered but they are not persuasive. In response to applicant's arguments, the recitation "for suspending a fixture in conjunction with a wire" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Applicant also argues that it is not clear how element 14 forms a hole. A hole is defined as "an opening through something". There is an opening formed through the portion formed by the ends of the arms 10 and 11.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.



Steven Marsh

September 4, 2003



RAMON O. RAMIREZ  
PRIMARY EXAMINER  
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